UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,429	07/25/2006	Tom Burgmans	US040085US2	1824

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/597,429	BURGMANS, TOM
	Examiner	Art Unit
	GREG BENGZON	2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 June 2008</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-19</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-19</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>03 June 2008</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some * c)☐ None of:
      1.☒ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>07/25/2006</u>.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This application has been examined. Claims 1-19 are pending.

Priority

This application claims benefits of priority from Provisional Application

60/539782 filed January 27, 2004.

The effective date of the claims described in this application is January 27, 2004.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 07/25/2006 is in

compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure

statement is being considered by the examiner.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Claims 14-17 are directed towards 'a *system*' . Upon inspection of the Applicant

Specifications Page 11 the Examiner concludes said system processor, databases, and

other elements are nothing more than software components.

Since a computer program is merely a set of instructions capable of being

executed by a computer, the computer program itself is not a process and USPTO

personnel should treat a claim for a computer program, without the computer-readable

medium needed to realize the computer program's functionality, as nonstatutory

functional descriptive material.

Data structures not claimed as embodied in computer-readable media are

descriptive material per se and are not statutory because they are not capable of

causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31

USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data

structures do not define any structural and functional interrelationships between the

data structure and other claimed aspects of the invention which permit the data

structure's functionality to be realized.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,4, 7-9, 11-14, 16-19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Hubbard (US Patent 7254607) in view of Cajolet (US Patent

6192388).

Hubbard disclosed (re. Claim 1) a method for processing a large programming

task by a plurality of remote product devices (13) of a product manufacturing entity (80),

the method comprising the acts of: decomposing, at a main processor (server) (10) of

said product manufacturing entity (80), said large programming task into a plurality of

work tasks; (Hubbard-Column 8 Lines 55-65,Column 11 Lines 35-55) and receiving

requests from said remote product devices (13) for said work tasks; (Hubbard-Column

15 Lines 35-65) distributing said work tasks to said product devices (13), responsive to

said received requests; receiving work task results from said product devices (13);

(Hubbard-Column 6 Lines 25-35)

While Hubbard substantially disclosed the claimed invention Hubbard did not

disclose (re. Claim 1) combining said work task results at said main processor (server)

(10) to yield an overall processing result of said large programming task.

Cajolet disclosed (re. Claim 1) combining said work task results at said main

processor (server) (10) to yield an overall processing result of said large programming

task. (Cajolet-Figure 6,Column 3 Lines 25-45,Column 9 Lines 1-15)

Hubbard and Cajolet are analogous art because they present concepts and practices regarding using excess network computing capacity to fulfill distributed tasks. At the time of the invention it would have been obvious to combine Cajolet into Hubbard. The motivation for said combination would have been to implement a problem dispatcher assembles the returned image or frame data in the appropriate file or files used for storing the output of the rendering task. (Cajolet-Column 10 Lines 20-45)

Claim 14,17 (re. system) is rejected on the same basis as Claim 1.

Furthermore Hubbard-Cajolet disclosed (re. Claim 14) a database for storing product device capability data. (Hubbard-Column 10 Lines 5-25)

Hubbard-Cajolet disclosed (re. claim 4) wherein said act of receiving requests from said remote product devices (13) for said plurality of work tasks further comprises the act of polling said main processor (server) (10) on a scheduled basis to establish a communication session with said main processor (server) (10). (Hubbard-Column 19 Lines 35-55)

Hubbard-Cajolet disclosed (re. claim 7) prior to said distributing act, the acts of:

comparing, at said main processor (server) 10, said capabilities and preference settings

of said requesting product device's with work tasks to be distributed; and determining,

based on said comparison, whether said requesting product device is suitable for

receiving one or more work tasks from said main processor (server) 10. (Hubbard-

Column 10 Lines 5-25)

Hubbard-Cajolet disclosed (re. claim 8) prior to said comparing act, one of (i)

retrieving said product device's capabilities and preference settings from a product

manufacturer entity (80), database (14); and (ii) transferring said product device's

capabilities and preference settings from said product device (13) to said product

manufacturing entity (80). (Hubbard-Column 9 Lines 5-25)

Hubbard-Cajolet disclosed (re. claim 9) identifying, at the main processor (server)

10, certain of said plurality of work tasks as critical work tasks. (Hubbard-Column 10

Lines 15-35, Column 22 Lines 65 thru Column 23 Lines 5)

Hubbard-Cajolet disclosed (re. Claim 11) providing reward points to product

owners of said plurality of product devices (13) in proportion to the amount of

processing resources expended to process said work tasks. (Hubbard-Column 6 Lines

20-35)

Hubbard-Cajolet disclosed (re. Claim 12) wherein a reward point total count is

maintained by said main processor (server) 10 for each for said product devices (13) in

a database (14). (Hubbard-Column 6 Lines 20-35)

Hubbard-Cajolet disclosed (re. Claim 13) wherein said award points are

redeemable for items selected from the group of items comprising: discounts toward the

purchase of future products of the product manufacturer entity (80), merchandise, resort

packages, airline travel, gift certificates of specified value from third party sources,

unlimited warranty and service for existing product devices, free telephone minutes, and

lottery chances. (Hubbard-Column 6 Lines 20-35)

Hubbard-Cajolet disclosed (re. Claim 16) wherein the main processor (server) 10 is any suitable server computer or processor system configured to perform large programming tasks. (Hubbard-Column 8 Lines 55-65,Column 11 Lines 35-55)

Hubbard-Cajolet disclosed (re. Claim 18) wherein each of said plurality of remote product devices (13) includes a client program (25) for managing the reception of work tasks, managing the processing of work tasks and for managing the return of work task results to said product manufacturing entity (80). (Hubbard-Column 3 Lines 25-45)

Hubbard-Cajolet disclosed (re. Claim 19) wherein said client program (25) includes a plurality of preference settings, comprising: (a) an accept/reject work task setting, (b) a processing time allocation setting, (c) a disk space allocation setting, (d) polling frequency setting, (e) a memory allocation setting, (f) a CPU usage type setting, (g) reward type setting (h) a work task type setting (i) a standby mode type setting, (j) an automatic processing type setting, and (k) a resume old task type setting. (Hubbard-Column 10 Lines 5-25, Column 13 Lines 1-25)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-3,5-6, 10, 15 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Hubbard (US Patent 7254607) in view of Cajolet (US Patent

6192388) further in view of Bernardin (US Patent 7093004).

While Hubbard-Cajolet substantially disclosed the claimed invention Hubbard-

Cajolet did not disclose (re. Claim 2) computing, at said main processor (server) (10),

an estimated time of completion for each of said plurality of work tasks.

Bernardin disclosed (re. Claim 2) computing, at said main processor (server)

(10), an estimated time of completion for each of said plurality of work tasks.

(Bernardin-Column 6 Lines 45 thru Column 7 Lines 25)

Hubbard, Cajolet and Bernardin are analogous art because they present

concepts and practices regarding using excess network computing capacity to fulfill

distributed tasks. At the time of the invention it would have been obvious to combine

Bernardin into Hubbard-Cajolet. The motivation for said combination would have been

to enable true idle detection and automatic fault-tolerant rescheduling, thereby

harnessing discrete pockets of idle capacity without sacrificing guaranteed service

levels. (Bernardin-Column 5 Lines 25-45)

Hubbard-Cajolet-Bernardin disclosed (re. Claim 3) re-distributing a work task to a

different product device in the case where a work task result is not returned to said main

processor server (10) within its estimated time of completion. (Cajolet-Figure 7, Column

10 Lines 35-65)

Hubbard-Cajolet-Bernardin disclosed (re. claim 5) wherein said scheduled basis

is determined in accordance with a polling frequency parameter defined in each of said

product devices (13). (Hubbard-Column 19 Lines 35-55)

Hubbard-Cajolet-Bernardin disclosed (re. claim 6) wherein said polling frequency

parameter may be modified in said product device (13) (Hubbard-Column 19 Lines 35-

55) in accordance with at least one of: (i) determining that said product device (13) is in

a standby mode, (ii) determining that said product device (13) is in a state of low CPU

and/or memory usage, (Hubbard-Column 21 Lines 1-15) (iii) determining that said

product device (13) is undergoing a system reboot, (iv) determining that said product

device (13) is currently processing a work task, (v) determining that said product device

(13) has predetermined amount of disk space available for use.

While Hubbard-Cajolet substantially disclosed the claimed invention Hubbard-

Cajolet did not disclose (re. claim 10) wherein said critical works tasks are redundantly

distributed by said to two or more remote product devices 13.

Bernardin disclosed (re. claim 10) wherein said critical works tasks are

redundantly distributed by said to two or more remote product devices 13. (Bernardin-

Column 6 Lines 45 thru Column 7 Lines 25)

Hubbard, Cajolet and Bernardin are analogous art because they present

concepts and practices regarding using excess network computing capacity to fulfill

distributed tasks. At the time of the invention it would have been obvious to combine

Bernardin into Hubbard-Cajolet. The motivation for said combination would have been

to enable true idle detection and automatic fault-tolerant rescheduling, thereby

harnessing discrete pockets of idle capacity without sacrificing guaranteed service

levels. (Bernardin-Column 5 Lines 25-45)

Hubbard-Cajolet-Bernardin disclosed (re. claim 15) wherein said main processor

(server) (10) is further configured to determine an estimated time of completion for each

of said plurality of work tasks (Bernardin-Column 6 Lines 45 thru Column 7 Lines 25)

and identify certain of said plurality of work tasks as critical work tasks. (Hubbard-

Column 10 Lines 15-35, Column 22 Lines 65 thru Column 23 Lines 5)

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in

the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are

applied to specific limitations within the individual claim, other passages and figures

may apply as well. It is respectfully requested from the applicant in preparing

responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention, as well as the context of the passage as taught by the prior art

or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully

requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds

of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. Please refer to the enclosed PTO-892 form.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to GREG BENGZON whose telephone number is

(571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30

PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg   Bengzon/

Examiner, Art Unit 2444